

December 10, 1999

OFFICE OF THE HEARING EXAMINER  
KING COUNTY, WASHINGTON  
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900 Fourth Avenue  
Seattle, Washington 98164  
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**REPORT AND RECOMMENDATION TO THE METROPOLITAN KING COUNTY COUNCIL**

SUBJECT: King County Department of Transportation File No. **V-2384**  
Proposed Ordinance No. **1999-0587**

**MARTIN AND STACY DEGELE**  
Petition for Road Vacation

Location: A portion of H. H. Howard Road lying 50 feet northerly  
of centerline of the Auburn Black Diamond Road

Petitioner: **Martin and Stacy Degele**  
14720 Auburn Black Diamond Road  
Auburn, WA 98092

SUMMARY OF RECOMMENDATIONS:

Department's Preliminary Recommendation:	Grant the petition
Department's Final Recommendation:	Grant the petition
Examiner's Recommendation:	Grant the petition

PRELIMINARY MATTERS:

Petition submitted: August 28, 1999

EXAMINER PROCEEDINGS:

Hearing Opened:	December 8, 1999
Hearing Closed:	December 8, 1999

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes.

A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

**SUMMARY:**

Petition for vacation of right-of-way is approved.

**FINDINGS, CONCLUSIONS & RECOMMENDATION:** Having reviewed the record in this matter, the Examiner now makes and enters the following:

**FINDINGS:**

**1. General Information:**

Petitioners: Martin and Stacy Degele (as successors to Karen L. Belter and Michael J. Hayatsu)  
14720 Auburn-Black Diamond Road  
Auburn, WA 98092  
Telephone: (253) 887-8183

Road Location: A portion of H. H. Howard Road lying northerly of the Auburn Black Diamond road, east of the City of Auburn, at 14720 SE Auburn-Black Diamond Road

Zoning: RA-5P  
Right-of-Way Classification: "B"  
Area: 26,959 square feet  
Compensation: \$10,109.63

2. Except as provided below, the Examiner adopts and incorporates herein by this reference the facts set forth in the Department of Transportation's report to the King County Hearing Examiner for the November 29, 1999 public hearing and the statement of facts contained in Proposed Ordinance No. 1999-0587, October 7, 1999 draft. The said report and ordinance will be attached to the copies of this report and recommendation submitted to the King County Council.
3. Maps showing the vicinity of the proposed vacation and the specific area to be vacated are Attachments 1 and 2 to this report and recommendation.
4. U. S. West Telecommunications responded to the Department of Transportation on March 8, 1999 that no easement is required within the area proposed to be vacated.

**CONCLUSIONS:**

1. The road subject to this petition is useless as part of the King County Road System, and the public will be benefited by its vacation.

2. The notice of hearing on the report of the Department of Transportation was given as required by law, and a hearing on the report was conducted by the King County Hearing Examiner on behalf of the Metropolitan King County Council.
3. The compensation required by law to be paid as a condition precedent to the vacation of this road has been deposited with King County. No easements are required for the construction, repair and maintenance of public utilities and services within the affected right-of-way.

RECOMMENDATION:

Approve Proposed Ordinance No. 1999-0587 to vacate the subject right-of-way.

ORDERED this 10<sup>th</sup> day of December, 1999.

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James N. O'Connor  
King County Hearing Examiner

TRANSMITTED this 10<sup>th</sup> day of December, 1999, to the following parties and interested persons:

James Berlini  
Steve Botts  
Covington Water District  
Martin and Stacy Degele  
Ken Humbert  
John Mortenson  
Roger and Patricia Tucker  
Greg Borba  
Tommy Burdette  
Don Ding

Thomas Eksten  
Dennis Gorley  
Kristen Langley  
Roderick E. Matsuno  
Ronald J. Paananen  
Dave Preugschat  
Lydia Reynolds  
Faith Roland  
Charlie Sundberg  
Joe Wilson

NOTICE OF RIGHT TO APPEAL  
AND ADDITIONAL ACTION REQUIRED

In order to appeal the recommendation of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$125.00 (check payable to King County Office of Finance) on or before **December 27, 1999**. If a notice of appeal is filed, the original and 6 copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council on or before **January 3, 2000**.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 403, King County Courthouse, prior

to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period

unless the Office of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within 14 days calendar days of the date of this report, or if a written appeal statement and argument are not filed within 21 calendar days of the date of this report, the Clerk of the Council shall place a proposed ordinance which implements the Examiner's recommended action on the agenda of the next available Council meeting. At that meeting, the Council may adopt the Examiner's recommendation, may defer action, may refer the matter to a Council committee, or may remand to the Examiner for further hearing or further consideration.

Action of the Council Final. The action of the Council on a recommendation of the Examiner shall be final and conclusive unless within twenty (20) days from the date of the action an aggrieved party or person applies for a writ of certiorari from the Superior Court in and for the County of King, State of Washington, for the purpose of review of the action taken.

#### MINUTES OF THE DECEMBER 8, 1999 PUBLIC HEARING ON KING COUNTY DEPARTMENT OF TRANSPORTATION FILE NO. V-2384 – MARTIN & STACY DEGELE:

James N. O'Connor was the Hearing Examiner in this matter. Participating in the hearing and representing the Department was Tommy Burdette. Participating in the hearing and representing the Applicant were Martin and Stacy Degele. There were no other participants in this hearing.

The following exhibits were offered and entered into the record:

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|----------------|--|
| Exhibit No. 1  | Report to the Hearing Examiner dated 10/28/99, with 15 attachments   |
| Exhibit No. 2  | Petition transmittal letter dated 8/28/98 to the Director of the Dept. of Transportation from the Clerk of Council.  |
| Exhibit No. 3  | Letter of explanation dated 8/21/98 from the petitioner.   |
| Exhibit No. 4  | Petition for Vacation of a County Road with an invalid legal description of Petitioners properties.  |
| Exhibit No. 5  | Copy of Filing fee—check #2927   |
| Exhibit No. 6  | Map depicting vacation area.   |
| Exhibit No. 7  | Vicinity map.  |
| Exhibit No. 8  | Copy of Quit Claim Deed recorded in Volume 681 or Deeds, Page 235, records of King County, Washington.   |
| Exhibit No. 9  | Copy of Quit Claim Deed recorded in Volume 681 or Deeds, Page 237, records of King County, Washington.   |
| Exhibit No. 10 | Copy of 1937 aerial photograph   |
| Exhibit No. 11 | Letter dated July 5, 1998 from the petitioner requesting confirmation of the road vacation process.  |
| Exhibit No. 12 | Letter dated September 16, 1998 from Road Services Division to the petitioner explaining the vacation process and requesting the petitioner to approved the attached legal description.                    |
| Exhibit No. 13 | Letter dated September 27, 1998 from Roger D. Tucker requesting to be added to the mailing list.   |
| Exhibit No. 14 | Letter dated October 7, 1998 from staff of the Road Services Division to Mr. Tucker confirming his request.  |
| Exhibit No. 15 | Letter dated January 15, 1999 from Martin and Stacy Degele to Road Services Division proclaiming ownership of abutting property.   |
| Exhibit No. 16 | Road Vacation Worksheet V-2384 dated June 25, 1999   |
| Exhibit No. 17 | Letter dated July 19, 1999 from the Department of Transportation, Road Services Division, to the Clerk of the King County Council.   |
| Exhibit No. 18 | Letter dated July 30, 1999 to Martin and Stacy Degele from Road Services Division to the Clerk of the King County Council.   |
| Exhibit No. 19 | Letter dated July 30, 1999 to James Berlien, c/o Pacific Northwest Title Insurance Company from Road Services Division identifying amount of compensation with County Road Engineer's letter and worksheet |

attached.

Exhibit No. 20	Copy of Check # 000374 for the compensation.
Exhibit No. 21	Letter dated October 7, 1999 from King County Executive Ron Sims to Councilmember Louise Miller.
Exhibit No. 22	Proposed Ordinance 1999-0587
Exhibit No. 23	Notice of hearing with map attached
Exhibit No. 24	Four photographs of the posting
Exhibit No. 25	Affidavit of posting with notice and map attached

**Exhibits 26-38 are from File No. V-2026, and are included as part of this exhibit list for File No. V-2384:**

Exhibit No. 26	Petition transmittal letter dated May 23, 1989 to the Director of the Department of Transportation from the Clerk of the Council
Exhibit No. 27	Letter of explanation dated May 17, 1989 from the petitioner
Exhibit No. 28	Letter dated May 18, 1989 from the petitioner to the Department of Public Works
Exhibit No. 29	Petition for Vacation of a County Road (7 pages).
Exhibit No. 30	List of reviewing agencies with 11 responses attached.
Exhibit No. 31	Letter dated October 3, 1989 from the Department of Transportation, Road Services Division to the Clerk of the King County Council.
Exhibit No. 32	Letter dated October 4, 1989 from the Clerk of the Council to the Real Property Division recommending that the vacation be granted.
Exhibit No. 33	Memorandum dated November 27, 1989 identifying the amount of compensation.
Exhibit No. 34	Letter dated November 27, 1989 from the petitioner's attorney to Roads Division questioning the compensation amount.
Exhibit No. 35	Letter dated November 28, 1989 from Real Property to petitioner's attorney identifying the amount of compensation and requesting conveyance of additional right-of-way.
Exhibit No. 36	Letter dated November 30, 1989 from Roads Division to the attorney asserting King County policies and procedures relating to road vacation.
Exhibit No. 37	Letter dated January 15, 1990 from the attorney to Real Property Division requesting that the compensation be revised.
Exhibit No. 38	Letter dated February 15, 1990 from Real Property Division to the attorney concurring with the revised compensation.
Exhibit No. 39	Affidavit of publication
Exhibit No. 40	Letter dated November 15, 1999 from Roger and Patricia Tucker to Hearing Examiner James N. O'Connor, regarding Road Vacation (File No. V-2384)
Exhibit No. 41	Letter dated November 10, 1999 from Road Services Division to Martin and Stacy Degele regarding staff report to the Hearing Examiner.
Exhibit No. 42	Letter dated November 10, 1999 from Road Services Division to Roger Tucker, regarding staff report to the Hearing Examiner.
Exhibit No. 43	Letter dated November 10, 1999 from Road Services Division to James Berlien regarding staff report to the Hearing Examiner.